

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

In the Matter of

**Computer Reservations Systems (CRS)
Regulations Statements of General Policy**

)
)
) **OST- 97-2881**
) **97-3014**
) **98-4775**
) **99-5888**
)

**ANSWER OF DELTA AIR LINES, INC.
TO PETITION OF SABRE, INC.
FOR A FACT HEARING**

Communications with respect to this document should be addressed to:

D. Scott Yohe
Senior Vice President -
Government Affairs
DELTA AIR LINES, INC.
1275 K Street, N.W.
Washington, D.C. 20005
(202) 216-0700

John J. Varley
Assistant General Counsel
J. Scott McClain
Senior Attorney
DELTA AIR LINES, INC.
Law Department (#981)
1030 Delta Boulevard
Atlanta, GA 30320-2574
(404) 715-2872

Robert E. Cohn
Alexander Van der Bellen
SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

Counsel for
DELTA AIR LINES, INC.

January 10, 2003

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.
January 10, 2003**

In the Matter of

**Computer Reservations Systems (CRS)
Regulations Statements of General Policy**

)
)
) **OST- 97-2881**
) **97-3014**
) **98-4775**
) **99-5888**
)

**ANSWER OF DELTA AIR LINES, INC.
TO PETITION OF SABRE, INC.
FOR A FACT HEARING**

Delta Air Lines, Inc. ("Delta") hereby answers in response to the Petition of Sabre, Inc. ("Sabre") for a fact hearing.

The Department's issuance of the NPRM last November was an important step in updating the CRS rules, which have become seriously out of date. The NPRM requested comments on a number of proposed rule changes, and provided a lengthy discussion of the rationale for the Department's preliminary proposals.

Delta agrees with Sabre that certain of the Department's factual underpinnings in the NPRM are outdated or incorrect. However, the Department has prudently provided a lengthy answer period and two rounds of comments to provide interested parties with the opportunity to present facts and arguments in response to the proposals. Indeed, the Department recently granted the request of Sabre and others to extend the comment

period for an additional two months. This additional time should be adequate to provide interested parties with ample opportunity to raise any concerns they may have with the proposed changes or the factual findings upon which they are based.

Delta is most concerned that a oral evidentiary hearing procedure could add significant complexity and cost to the rulemaking procedure resulting in further delay to the necessary changes to the outdated CRS regulations.

Sabre's claim that a fact hearing is required to avoid due process violations is not correct. Indeed, the original CRS rules were promulgated using informal non-hearing procedures – a process was challenged and upheld on review by the 7th Circuit. *United Air Lines, Inc. v. Civil Aeronautics Board*, 766 F.2d 1107 (7th Cir. 1985). As explained by the Court in that case, “the Administrative Procedure Act makes clear that notice of the scope and general thrust of the proposed rule, and an opportunity to submit written comments are all the procedure that an agency engaged in informal rulemaking is required to provide.” 766 F.2d at 1116. Thus, there is no statutory requirement for the Department to hold an evidentiary hearing to update the CRS rules and the informal rulemaking process satisfies due process requirements.

In issuing the NPRM, the Department said that it had not made final decisions on many CRS issues, but rather acknowledged the pros and cons of conflicting positions asserted by the many parties, thus leaving open the door to comments on each of the points raised. The four-month comment period offered by the Department

should provide ample time for interested parties to investigate the facts, gather information requested by the Department, undertake the analyses required by the NPRM and prepare responsive comments that will assist the Department.

To the extent interested parties contend that certain of the Department's stated factual underpinnings are outdated or incorrect, they will have ample opportunity to present in their written comments (and reply comments) any evidence and argument they wish the Department to consider. The Department can then update or correct any outdated or mistaken factual assumptions as appropriate as a part of its final rulemaking.

The NPRM details the information and data relied on by the Department, and interested parties now have ample time and opportunity to comment and rebut that information if they wish to do so. As a result, the Department will have access to complete, accurate and updated information by proceeding expeditiously with the comment and reply comment process specified in the Notice.

In conclusion, Delta urges the Department to proceed expeditiously with needed changes to the outdated CRS rules. Delta opposes the proposed hearing procedure suggested by Sabre since it is not required under the Administrative Procedure Act and would add significant cost, complexity and delay to the rulemaking process. Although certain of the information and data relied on by the Department in the NPRM is out-of-date, Delta expects the Department will carefully evaluate the factual information and

analysis provided by commentators in response to the NPRM as it evaluates making proposed revisions to the CRS rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. Van der Bellen", written over the printed name of Alexander Van der Bellen.

Robert E. Cohn

Alexander Van der Bellen

SHAW PITTMAN LLP

2300 N Street, N.W.

Washington, D.C. 20037

(202) 663-8060

Counsel for

DELTA AIR LINES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Delta Air Lines, Inc. has been served this 10th day of January, 2003, upon each of the following persons:

Carl B. Nelson, Jr.
American Airlines, Inc.
carl.nelson@aa.com

Joann Young
Baker & Hostetler
jyoung@bakerlaw.com

Bruce Keiner, Jr.
Crowell & Moring
lhalloway@crowell.com

Donald T. Bliss Jr.
O'Melveny & Myers LLP
dbliss@omm.com

Bruce H. Rabinovitz
Jeffrey A. Manley
Wilmer, Cutler & Pickering
brabinovitz@wilmer.com
jmanley@wilmer.com

John Gillick
Ken Quinn
Pillsbury Winthrop
jgillick@pillsburywinthrop.com
kquinn@pillsburywinthrop.com


Megan Rae Rosia
Northwest Airlines, Inc.
megan.rosia@nwa.com

Richard D. Mathias
Frank J. Costello
Zuckert Scoutt & Rasenberger LLP
rdmathias@zsrlaw.com
fjcostello@zsrlaw.com@internet

Paul Ruden
American Society of Travel Agents
paulr@astahq.com

David Coburn
Steptoe & Johnson LLP
dcoburn@steptoe.com

Robert Kneisley
kneisle@wnco.com@internet


Trina Robertson